

Item
5(8)

Description:	Change of use of ground floor shop (Class A1) and first floor flat (Class C3) to a mixed use of shop, bicycle workshop and cafe (Class Sui Generis). Application has been amended to include revised opening hours.
Reason for consideration at Committee:	Objections
Recommendation:	Approve
Ward:	Mancroft
Contact Officer:	Mr Kian Saedi Planner 01603 212524
Valid Date:	29 September 2012
Applicant:	Mr Matthew Lawford
Agent:	Mr Matthew Lawford

The Site

1. The application site is located on the east side of Magdalen Street and is a three-storey terraced building. The site is located within the Colegate character area of the City Centre Conservation Area and the application building is identified as contributing a positive frontage.

2. The site is located within the City Centre Conservation Area.

3. No relevant planning history.

There are no significant equality or diversity issues. Level wheelchair access is provided from the street and a ramp will also be provided allowing wheelchair access to the workshop area. The premises are relatively small and due to the limited space it is not possible to provide any lift access to the first floor. The small toilet marked for

staff is located at the rear of the site towards the back of the workshop. Safe and unobstructed access can be provided to this toilet for wheelchair users through a workshop area. Toilets for customers would normally be sited near the café use – which in this case is on the upper floor to which there is no disabled access.

The Proposal

4. The applicant proposes to change the use of the ground floor shop (Class A1) and first floor flat (Class C3) to a mixed use development of shop/café/workshop (Class Sui Generis).

Representations Received

Original scheme:

5. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. Three letters of representation were received citing the issues as summarised in the table below.

Amended hours scheme:

6. Revised press and site notice expires on 23rd January 2013. Any additional representations received since this report was written will be included within the update report. The revised notification letter sent to adjacent and neighbouring properties expired on 16th January 2013.

Issues Raised	Response
The area is already served by an adequate number of coffee shops in the area.	See paragraph 14
The rear of 27 is adjacent to four residential properties and consideration must be given to smoking and noise issues.	See paragraphs 15-18
Class use category has been applied for incorrectly. Application cannot be made purely in the A1 retail class. The use should be for refreshment/food use and not retail.	See paragraphs 12-13
Internal works have already begun.	See paragraph 18
There is no provision for cyclists to leave their bikes outside the shop.	See paragraph 21
There seems to be an unclear purpose of business. There is nowhere to put trade waste on the street.	See paragraphs 12-13 See paragraph 22
A verbal objection has been made via telephone correspondence regarding the revised opening hours. The complainant was informed that the application would be re-advertised to include the revised	See paragraphs 15-18

opening hours to provide opportunity for members of the public to make representation directed on such grounds.	
-----------------------------------------------------------------------------------------------------------------	--

Consultation Responses

7. Environmental Health have recommended that several conditions be added to any permission in order to control the installation of any extract system or amplified sound equipment on the site. Permitted opening hours of both the internal and external areas of the premises are also to be restricted.

ASSESSMENT OF PLANNING CONSIDERATIONS

Relevant Planning Policies

National Planning Policy Framework:

Section 1 – Building a strong, competitive economy
Section 11 – Conserving and enhancing the natural environment
Section 12 - Conserving and enhancing the historic environment

Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011

Policy 5 – The economy
Policy 11 – Norwich City Centre

Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004

HBE8 - Development in Conservation Areas
HBE12 - High quality of design in new developments
EP22 - High standard of amenity for residential occupiers
SHO11 – Changes of use in retail frontages in Secondary and Large District Centres
EMP1 - Small scale business development
HOU16 – Loss of residential accommodation resisted
TRA6 - Parking standards - maxima
TRA7 - Cycle parking standards
TRA8 - Servicing provision

Supplementary Planning Documents and Guidance

City Centre Conservation Area Appraisal (September 2007)
Local Finance Considerations
Loss of New Homes Bonus

Principle of Development

Policy Considerations

8. The proposal involves the loss of the 1st floor residential unit and as such saved policy HOU16 of the Local Plan is relevant, which states that development involving the change of use of dwellings to other uses will not be permitted unless an overriding community gain of facilities or clear conservation/regeneration purpose benefiting the character or economy of the area can be demonstrated.
9. The ground floor shop and flat at 1st floor level have been vacant for some time apart from a brief period of unauthorised use of the premises as a single dwelling. The proposed use would facilitate the opening of a new business, which is

consistent with objectives of economic growth and for offering a facility that can benefit the community. The applicant has expressed the desire to retain a shop front display window and to repair and restore the windows, which are in some state of disrepair. In this respect the proposal will also contribute positively towards the appearance of the application building and vitality of the area, which will result in a conservation and regeneration benefit to the surrounding area.

10. The site is located within the Major District Centre of Magdalen Street where saved policy SHO11 of the Local Plan seeks to protect the vitality and viability of the area by not allowing the non-retail ground floor frontage of the area to exceed 70%. Although the proposal is for mixed use development (shop, workshop and café), the ground floor of the premises retains a retail function and the applicant intends to create a shop-front window display. The current non-retail frontage of the Magdalen Street District Centre is currently 24.5% (which is not in breach of the 70% retail threshold of the area), and the proposed use is considered compatible with surrounding uses and likely to enhance the vitality of the area. The café aspect of the business will also allow the premises to stay open longer and contribute to the early evening economy, which is compatible with the objectives of Policy 11 of the JCS.
11. Subject to satisfying Environmental Health concerns (to be discussed later in the report), the proposal would avoid any negative impact upon residential amenity in the surrounding area. The site is well served by public transport and is readily accessible to non-car users. Servicing arrangements are discussed later in the report, but on the whole the proposal is considered to satisfy the criteria set out in saved policy EMP1 of the Local Plan.

Assessment of Use

12. The applicant proposes to operate the premises as a mixed use bicycle workshop/shop/café. The café will span across both floors with the bicycle workshop and sales area located at ground floor level. The applicant has indicated that the workshop will feature a half open entrance into the sales/café area in order to allow customers to interact more freely with the workshop aspect of the business. The shop will be decorated with bicycle paraphernalia.
13. The use of the premises would represent a relatively unique business proposition. Although in terms of floorspace the site will predominantly be dedicated to the café, a significant proportion of the business is focused on the bicycle workshop/retail sales service, much more than could otherwise be considered ancillary. The planning permission being sought does not permit the premises to operate solely as a café and it is considered that the proposed floor plan (received 28.09.2012) provides a sufficient illustration of how the applicant intends to use the premises.
14. An objection has been received expressing the opinion that the area is already adequately served by cafes and that there is no need for further cafes along Magdalen Street. The applicant is seeking to only part operate the business as a café, but in any case, the 'need' for a café is governed by market demand and does not constitute a material planning consideration.

Noise and Disturbance

15. The business will partly be operated as a café across both floors of the premises and a small area of outdoor seating at the rear of the first floor level will also be

provided for people to eat/drink. The rear of the site is located adjacent to residential properties, most notably on the upper floors of the neighbouring site to the north (number 29), and also at 'The Cottage' annexe, located to the rear of number 29 Magdalen Street. It is therefore necessary to ensure that any potential sources of noise disturbance are controlled in order to protect the residential amenity of the neighbouring properties.

16. Since the application first came in the applicant has proposed opening hours of no later than 23:00 hours on any day to allow for the hosting of occasional scheduled events. It is not the intention of the applicant to open until 23:00 hours every day of the week and subject to conditions and the mitigatory measures discussed below, it is considered that the opening hours are acceptable and will minimise any negative impact to the living conditions of neighbouring properties.
17. The outdoor seating area is directly below a window to a habitable room of number 29 (illustrated on the photograph to be shown at committee presentation). The seating area is small, perhaps large enough to accommodate three picnic tables, but the noise created by users of the outdoor seating area could be problematic, especially if the area were to be used late into the evening. It is considered appropriate to restrict the use of the outside seating area to no later than 21:00 and to prohibit the installation of any loudspeaker, amplifier, relay or other audio equipment outside of the building. The use or installation of any acoustic or non-acoustic instrument will be prohibited in the outdoor area of the site.
18. Regarding the internal area of the premises, conditions would also need to be added to any permission restricting noise from plant/machinery, amplified sound equipment and extract ventilation/fume systems. The opening hours of the internal areas would need to be restricted to no later than 23:00 on any day, to protect the amenity of the nearby residents. Collectively, these conditions would protect the amenity of adjoining and nearby residents in accordance with the aims of saved policy EP22 of the Local Plan.

Design

19. The application building is not listed and no external alterations are proposed beyond restoration works to the existing windows, some of which are in a poor state of disrepair. The internal works do not require planning permission and although this is not recommended practice, they can lawfully be carried out prior to planning consent being granted.
20. The proposal will bring a vacant premise back into use and also re-instate a shop-front display window, which is likely to make a positive contribution towards the immediate street scene and wider conservation area and comply with saved policy HBE8 of the Local Plan.

Transport and Servicing

21. No car parking is proposed at the site and the applicant has made provision for the storage of 10-15 cycles in the rear yard of the premises. The majority of cycle parking will be given over to customer bicycles awaiting service and repair. Secure and covered cycle storage will be provided for staff members, which will be ensured by way of condition. Public cycle parking is provided nearby at the underpass with St Crispins Road and subject to the imposition of conditions, the proposal will accord with saved policy TRA7 of the Local Plan and the parking standards as set out in Appendix 4 of the Local Plan.

22. A refuse storage area is proposed in the rear yard of the premises and collection will be arranged by the applicant with a commercial provider. Waste would be stored in the rear yard and then collected from the street as is the case with surrounding businesses in the area. It is considered that sufficient space exists on street for same day collection for a business of the size and intensity proposed. If waste storage arrangements were ever to present a problem for the amenity of surrounding properties then the matter could be taken up for investigation on environmental health grounds.

Conclusions

23. As mentioned in paragraph 16 above the opening hours have been amended from no later than 18:00 hours to no later than 23:00 hours on any day to allow for the hosting of occasional evening events. In order to provide opportunity for members of the public to make representation on the revised opening hours, the application has been re-advertised. The site and press notice do not expire until the 23rd January, six days after the date of the current planning applications committee (17th January 2013).
24. However, subject to the above it is considered that the proposal will introduce a new and unique business to the Major District Centre of Magdalen Street, compatible with surrounding uses and likely to enhance the vitality of the area both across daytime and early evening hours. The existing retail function of the ground floor of the premises is partially retained, as is the shop-front window display, which together with the proposed window repairs, will enhance the appearance of both the application building and character of the wider Conservation Area. The site has been vacant for some time and the loss of the residential unit at 1st floor level is on balance considered to be outweighed by the economic benefits associated with introducing a new business to the area, the conservation benefits associated with bringing a vacant retail unit back into use and the benefits of facilitating a service consistent with the citywide objective of promoting sustainable modes of transport. Transport and servicing arrangements are also considered to be acceptable.
25. A number of conditions will be imposed upon any planning consent to limit activity on site and control potential sources of noise disturbance to nearby residents. Subject to conditions therefore, the proposal is considered acceptable and in accordance with the objectives of Sections 1, 11 and 12 of the National Planning Policy Framework (March 2012), Policies 5 and 11 of the Joint Core Strategy for Broadland, Norwich and South Norfolk (2011), saved policies HBE8, HBE12, EP22, SHO11, EMP1, HOU16, TRA6, TRA7 and TRA8 of the City of Norwich Replacement Local Plan (2004) and all other material considerations.

RECOMMENDATIONS

Recommendation 1:

Subject to not receiving any representations that raise new issues not yet discussed in the assessment of the application by 23rd January 2013, to grant planning permission subject to the following conditions: -

Conditions:

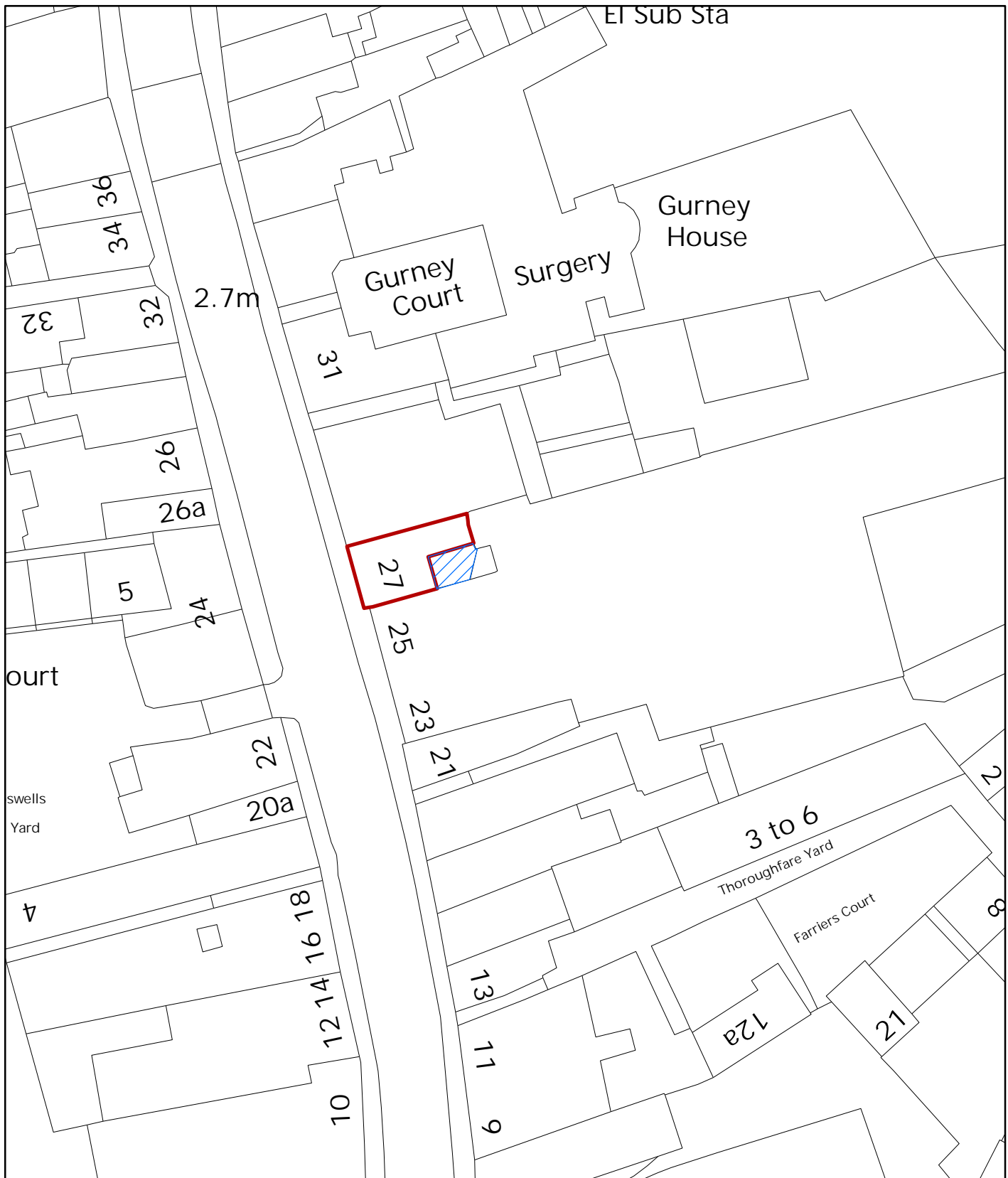
- 1) STLC 3 years
- 2) The development hereby approved shall be carried out in accordance with the plans and details as specified on this decision notice.
- 3) No trade deliveries or collections including trade waste or clinical waste, shall take place before 07:00 hours and after 18:00 hours Monday to Saturday. There shall be no trade deliveries or collections including trade waste or clinical waste, on Sundays or Bank or Public Holidays.
- 4) No use of any plant and/or machinery shall take place on the premises unless and until it has been enclosed with sound insulating/absorbing material and mounted in such a way which will minimise transmission of structure borne sound in accordance with a scheme to be first approved in writing by the local planning authority and once enclosed, it shall be retained as such thereafter.
- 5) No loudspeaker, amplifier, relay or other audio equipment (including the use of any acoustic or non-acoustic instruments) shall be installed or used outside the building the subject of this permission.
- 6) (i) No installation of any amplified sound equipment shall take place within the application premises until details of the amplification equipment have been submitted to and agreed in writing by the local planning authority.
(ii) The amplification system shall be designed to limit the level of noise emanating from the premises, such that the noise levels from the application premises shall not exceed 45dB at 63Hz C.B.F., 40dB at 125Hz C.B.F. and NR30 over the frequency range from 250Hz to 8KHz as measured at a position 1 metre outside any noise sensitive premises and shall not exceed 37 Db AT 63Hz C.B.F., 30dB at 125Hz C.B.F and NR20 over the frequency range from 250Hz to 8KHz as measured inside any adjoining noise sensitive premises. Where further internal sound proofing is required to meet these levels, full details of the proposed sound proofing shall be submitted with the amplification equipment details and shall include details of its specification, location and fixing.
(iii) The submitted details shall include:
 - (a) specification for all amplification equipment and speakers;
 - (b) the location of all proposed speakers;
 - (c) the maximum noise levels expressed in dB LAeq (5 mins), measured at a point 2 metres from any loudspeaker forming part of the amplification system; and
 - (d) measures to be put in place to ensure that the amplification system cannot be adjusted beyond the maximum permitted noise levels agreed in (c) above.
- (iv) No use of the premises as a [specified use e.g. drinking establishment] shall take place until the amplification system and any sound proofing measures as agreed have been installed and thereafter the agreed permitted maximum noise levels shall not be exceeded at any time.
- (v) No amplified music shall be played in the premises the subject of this permission other than through the permanently installed amplification system as agreed under this condition and no alteration of this system shall take place without the prior written agreement of the local planning authority.
- 7) No extract ventilation or fume extraction system shall be installed or erected on

the site unless in accordance with a detailed scheme that has been submitted to and approved in writing by the local planning authority. The detailed scheme shall include the position of ventilation, fume or flue outlet points and the type of filtration or other fume treatment to be installed and used in the premises in pursuance of this permission, together with a schedule of maintenance. No use of the premises as hereby permitted shall take place until the approved scheme has been installed and is operational and thereafter it shall be retained in full accordance with the approved details and the maintenance of the system, including any flue, shall be carried out in accordance with the scheme as agreed.

- 8) The premises which form the subject of this permission and outlined in red on the approved location plan (received 11.09.2012) shall not be open to the public, trading, nor have members of the public, as customers or guests, on the premises between the hours of 23:00 and 07:00 on any day.
- 9) There shall be no use of the outdoor seating area as illustrated on the approved proposed floor plan (received 28.09.2012) after 21:00hrs and before 07:00 hrs on any day.

Recommendation 2:

If representations are received which raise new issues before 23rd January 2013, to bring the application back to members for their consideration.



© Crown Copyright and database right 2013. Ordnance Survey 100019747.

Planning Application No 12/01819/F
 Site Address 27 Magdalen Street
 Scale 1:500

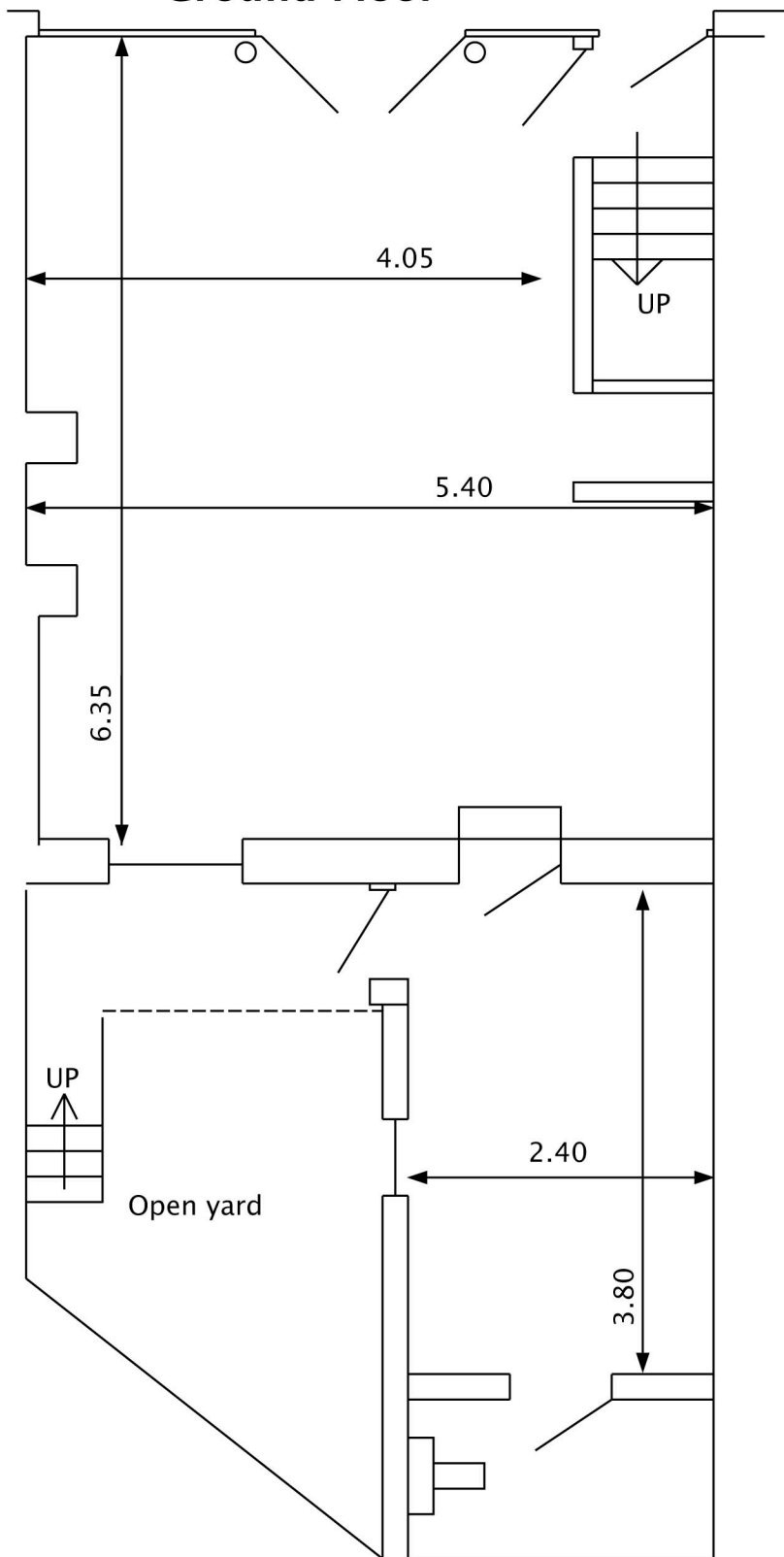


NORWICH
 City Council

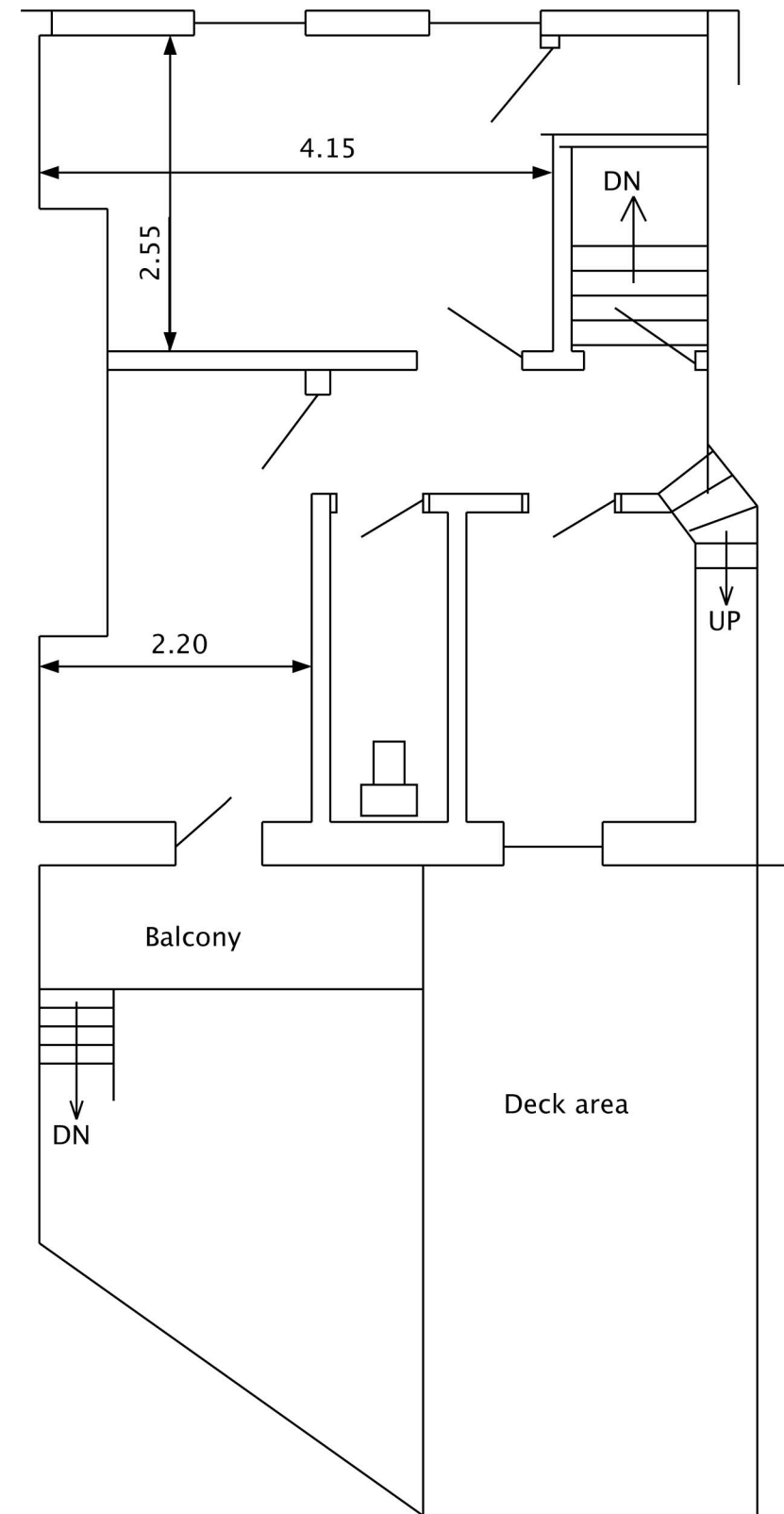
PLANNING SERVICES



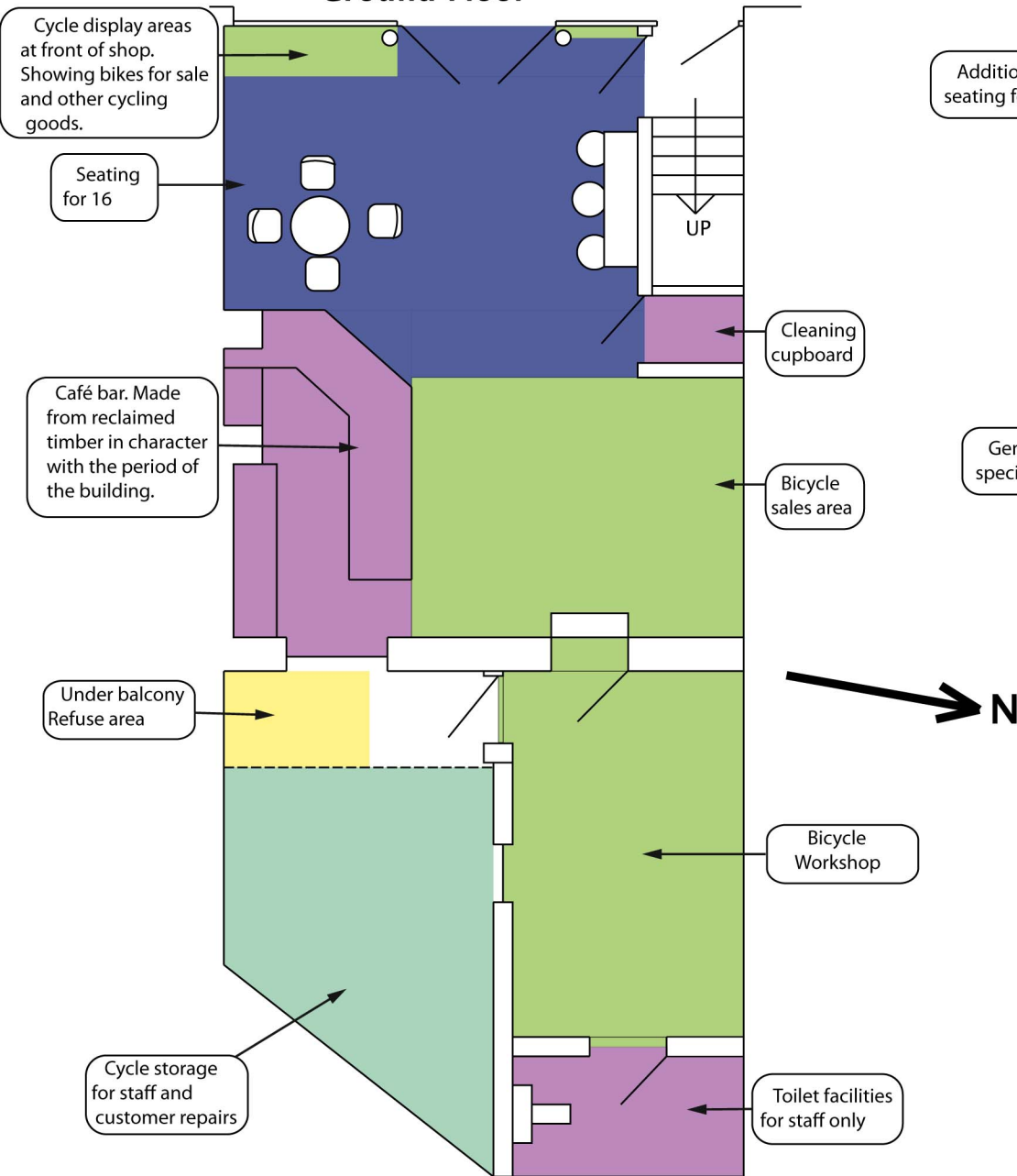
Ground Floor



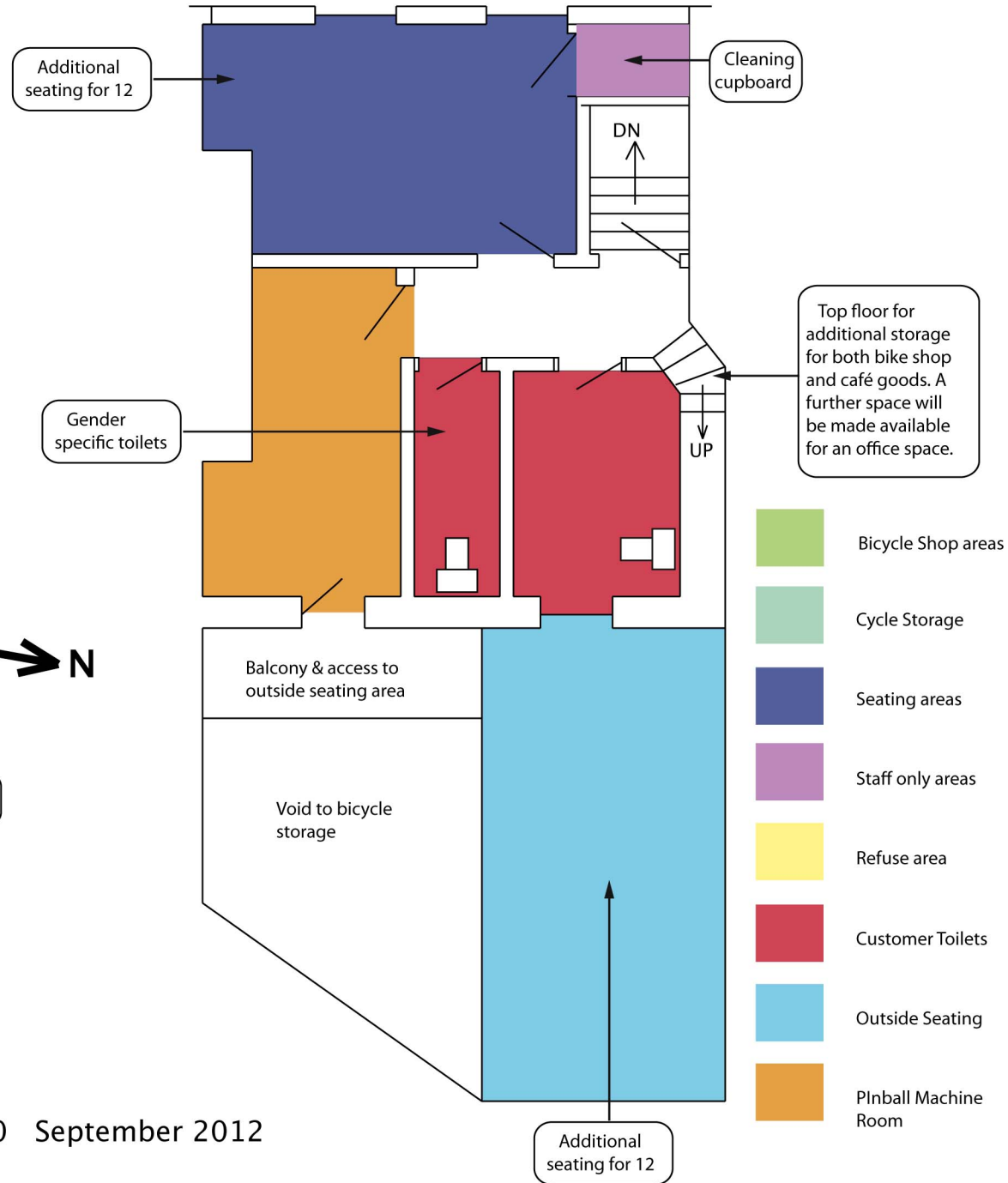
First Floor



Ground Floor



First Floor



- Bicycle Shop areas
- Cycle Storage
- Seating areas
- Staff only areas
- Refuse area
- Customer Toilets
- Outside Seating
- Pinball Machine Room

27 Magdalen Street, Norwich Proposed 1:50 September 2012